



California Regional Water Quality Control Board

Santa Ana Region



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Arnold Schwarzenegger
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November 16, 2007

Ray Casey
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399-9950

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE PROPOSED OAK GLEN CREEK DETENTION/DE-SILTING BASINS, CITY OF YUCAIPA (ACOE REFERENCE NO. NOT AVAILABLE)

Dear Mr. Casey:

On January 11, 2006, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for the proposed construction of three detention/de-silting basins in and adjacent to Oak Glen Creek in the City of Yucaipa (a.k.a. Oak Glen Creek/Wilson II Basins). On May 5, 2006, Regional Board staff received requested engineering details regarding the design of the basins. After reviewing the basins design, Regional Board staff requested that a sediment transport analysis be prepared to address the potential for the basins to cause or contribute to downstream degradation of Oak Glen Creek. The requested analysis was provided on January 12, 2007. Additional requested details regarding the analysis were provided on June 12, 2007, following a meeting on May 15, 2007.

During subsequent review of your project, it became apparent that Regional Board staff had not been provided with a valid environmental document prepared pursuant to the California Environmental Quality Act (CEQA). The version that had been provided with the application for Certification, dated December 2005, had been amended. Another version, dated April 2006, was received on July 25, 2007.

This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Alterations of segments of Oak Glen Creek and its flood plain for the construction of three detention/de-silting basins, located upstream of Bryant Street in the City of Yucaipa. Two of the basins will be constructed off-line and one basin will be constructed on-line, in the flow path of Oak Glen Creek. The

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two off-line basins will accept flows when the first in-line basin overflows into the second and then the third; when storm water runoff is diverted into the off-line basins; and to retain flows in the basins in order to de-water downstream reaches of Oak Glen Creek to allow maintenance. The basins will be subject to periodic excavation in order to remove accumulated sediment and debris. The construction of the Oak Glen Creek Basins will include a recreational trail system, associated rest locations, and a 10-space parking lot for visitors. The goals of the proposed project are:

- 1) To reduce flooding from Bryant Street downstream to Interstate 10;
- 2) Collect debris and sediment within the Basins in order to improve water quality and reduce flooding;
- 3) Provide for groundwater recharge with local storm water runoff and with non-potable water, including untreated State Water Project water;
- 4) Provide for open space for wildlife;
- 5) Provide for education opportunities for visitors regarding the water cycle, water conservation and recharge; and
- 6) Provide outdoor recreational opportunities.

In the future, the Basins may be used for groundwater recharge by the Yucaipa Valley Water District and/or the San Bernardino County Flood Control District. As such, portions of the Basins may be subject to additional maintenance activities, including, disking, ripping, and vegetation removal. This Certification does not apply to actions related to the use of the Basins for the purpose of active groundwater recharge. This Certification does not apply to the proposed use of the Basins to de-water downstream reaches of Oak Glen Creek. The basins are located adjacent to Bryant Street in Section 31 of Township 1 South, Ranges 1 and 2 West, of the U.S. Geological Survey *Yucaipa, California*, 7.5-minute topographic quadrangle map (34.0457 degrees N/-117.0345 degrees W).

Receiving water: Oak Glen Creek

Fill area: 0.32 acres of intermittent riparian drainage, including 0.26 acres of wetland (1,204 linear feet).

Dredge/Fill volume: N/A



Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 43.

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Storm water runoff from the parking lot will be treated using a filtered dry well and/or bio-swale.
- Site-specific best management practices (BMPs) will be implemented according to Regional Board Order No. R8-2002-0012, NPDES Permit No. CAS618036 (Order No. R8-2002-0012).
- The affected portions of Oak Glen Creek will be re-vegetated with native riparian vegetation. Wetland and riparian areas will be replaced in-kind on an acre-for-acre basis. The re-vegetation effort will proceed under a five-year schedule or less, if vegetative success criteria are met early.
- Signage will be posted designating authorized use areas by City and County staff and visitors.

Offsite Water Quality Standards Mitigation Proposed:

- No off-site water quality standards mitigation is proposed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2002-0012, commonly known as the San Bernardino County Municipal Storm Water Permit. Order No. R8-2002-0012 requires that you substantially comply with the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, including the preparation of a SWPPP.

Construction de-watering discharges from the proposed project may be regulated under Regional Board Order No. R8-2003-0061, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimis) Threat to Water Quality. For more information, please review Order No. R8-2003-0061 at www.waterboards.ca.gov/santaana/pdf/03-61.pdf.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers (Corps) in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the



California Environmental Quality Act (CEQA), the City of Yucaipa adopted a mitigated negative declaration on April 10, 2006.

The proposed project is part of the City of Yucaipa's Master Plan of Drainage, adopted in 1993 (Master Plan). The City's Master Plan includes several contemplated elements intended to reduce the flood plain of Wilson Creek upstream of Interstate 10 and improve the development potential of the area. Other elements include the development of a similar set of detention/de-silting basins in the watershed (referred to as the Wilson I Basins) and channel improvements within the flood-prone area of the City. Originally, Regional Board staff was concerned with the potential for the Oak Glen Creek Basins to cause channel instability immediately downstream as a result of sediment starvation.

However, during the May 15, 2007 meeting, after learning of the other elements of the Master Plan of Drainage, Regional Board staff concerns shifted further to the reach of Oak Glen Creek downstream of Interstate 10. This reach of Oak Glen Creek is currently deeply incised with near-vertical banks and Regional Board staff has responded to complaints involving stream bank armoring by adjacent property owners.

In response to Regional Board staff concerns, the City of Yucaipa provided a qualitative assessment of the stability of Oak Glen Creek, prepared by David Evans and Associates (DEA). Based on the completed sedimentation analysis and their professional judgment, DEA concluded that "the project will have a very minor impact on the percentage of wash load that is captured...and a minor impact on the percentage of sand which is captured...in the overall [30,000-acre watershed]". Regional Board staff accepts this conclusion but believes that the cumulative impacts of the Oak Glen Creek Basins, along with the other elements of the City's Master Plan of Drainage, should be more fully evaluated as part of the upcoming update of that Plan.

This Certification does not authorize activities related to the active management of the basins for recharge. It has been Regional Board staff experience with recharge projects, such as those undertaken by Orange County Water District in the Santa Ana River, Eastern Municipal Water District in the San Jacinto River, and elsewhere, that recharge activities often require intensive active management of the affected waters. These maintenance activities include disking, ripping, and vegetation removal within waters of the State. These activities can monopolize the use of the waters for recharge to the exclusion or impairment of other beneficial uses, including support of recreation and wildlife. Consequently, activities necessary to maintain groundwater recharge facilities may not be compatible with the City's proposal to mitigate impacts to beneficial uses by re-creating waters of the State, including wetlands, within the basins. Potential impacts related to maintenance of groundwater recharge facilities activities on the proposed wetlands are not mitigated.

In addition, potential air quality impacts from the use of heavy equipment for active groundwater recharge; potential seismic hazards due to elevation of groundwater levels; and potential impacts on groundwater movement and pollutants contained therein have not been analyzed in the City's environmental document. The City has acknowledged that the



proposed basins and recharge project, "are separate proposals on different timelines". Consequently, any authorization for discharges of fill associated with active groundwater recharge will need to occur under a separate action after an appropriate environmental document has been prepared.

De-watering efforts have the potential to impact the beneficial uses of Oak Glen Creek by submerging or drying plant and animal habitats. De-watering would occur by containing stream flows in the basins to allow for unspecified work in the downstream channel. This activity was not disclosed or analyzed in the City's environmental document. Consequently, this Certification does not apply to de-watering of Oak Glen Creek. The environmental analysis is adequate for the issuance of this Certification.

This 401 Certification is contingent upon the execution of the following conditions:

1. The City of Yucaipa shall re-vegetate the altered reach of Oak Glen Creek using appropriate native vegetation for the purpose of restoring/creating a minimum of 0.26 acres of wetlands and 0.06 acres of riparian waters. The effort shall begin not later than October 15th following completion of rough and fine grading and the installation of the necessary drainage conveyance structures. The effort shall proceed according to a written mitigation plan, prepared according to Corps Guidelines, using quantifiable success criteria, over five year period.
2. The City of Yucaipa shall employ an effective combination of structural (i.e. fencing, buffers, planting, etc.) and non-structural (i.e. educational signage) BMPs for the purpose of minimizing adverse effects to the recreational and ecological beneficial uses of the Basins.
3. The City of Yucaipa shall use materials, textures, or colors, in the construction of the Basins' hard structures, that blend the structures into the overall landscape.
4. A copy of this Certification shall be maintained at the project site for the duration of construction activities and be accessible to key personnel.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application

specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit –Bill Orme
California Department of Fish and Game, Ontario Office – Jeff Brandt
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

APF:401/certifications/Wilson ck basins 362006-01

